

COUNTY OF YORK

MEMORANDUM

DATE: July 1, 2004 (BOS Mtg. 7/13/04)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator

SUBJECT: Request for Bank Franchise Tax Refund—South Trust Bank

Section 58.1-3980 of the Code of Virginia provides that any taxpayer may apply to the appropriate assessing officer for refund of taxes paid as a result of an erroneous assessment. The application must be made within three years from the last day of the tax year for which the assessment was made. Therefore, an applicant may seek recovery of taxes for the current year and for the three prior tax years. If a penalty or interest has been paid by the taxpayer, that may be recovered also. The consent of the County Attorney to the refund must be obtained as required by Code § 58.1-3981. Any refund in excess of \$2,500 must be approved by the Board.

Attached is a request for a tax refund submitted by South Trust Bank, asking for a refund of the 2002 bank franchise tax in the amount of \$3,262.00. As authorized by statute, the County has imposed a bank franchise tax on a bank's net capital. See County Code §§ 21-70 *et seq.* The County's tax rate is 80% of the state's rate of taxation imposed on each \$100 of the bank's net capital. Net capital in turn is determined as defined in Virginia Code § 58.1-1205, and the following state code section allows, as a deduction from gross capital in order to arrive at net capital, an amount equal to 90% of good will created in connection with any acquisition or merger. Apparently, that was the case with respect to South Trust Bank, and the bank has amended its 2002 state tax forms accordingly, resulting in a reduction in the bank's net capital for taxation purposes. The result, as calculated by the Commissioner of Revenue, entitles the bank to the requested refund.

Attached is a draft resolution which, if adopted by the Board, will authorize the Commissioner of Revenue and the Treasurer to grant the requested refund.

Barnett/3440:swb

Attachments

- Request for Tax Refund
- Resolution R04-116